

**TO EXTEND THE EXPORT ADMINISTRATION ACT
UNTIL NOVEMBER 20, 2001;
CONCERNING PERSECUTION OF MONTAGNARD
PEOPLES IN VIETNAM**

MARKUP
BEFORE THE
COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 2602 and H. Con. Res. 178

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**TO EXTEND THE EXPORT ADMINISTRATION
ACT UNTIL NOVEMBER 20, 2001; CON-
CERNING PERSECUTION OF MONTAGNARD
PEOPLES IN VIETNAM**

WEDNESDAY, JULY 25, 2001

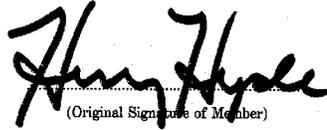
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Committee met, pursuant to call, at 10:20 a.m. in Room 2172, Rayburn House Office Building, Hon. Henry J. Hyde (Chairman of the Committee) presiding.

Chairman HYDE. The Committee will come to order.

Pursuant to notice, I now call up the bill H.R. 2602 for purposes of markup and move its favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any point.

[The bill, H.R. 2602, follows:]



(Original Signature of Member)

107TH CONGRESS
1ST SESSION

H. R. 2602

IN THE HOUSE OF REPRESENTATIVES

(for himself and Mr. Lantos, Mr. Leach, Mr. Gallegly, Mr. Gilman,
(Ms. Ros-Lehtinen, Mr. Cooksey, Mr. Smith of MI, and Ms. Napolitano)
Mr. HYDE introduced the following bill; which was referred to the Committee
on _____

A BILL

To extend the Export Administration Act until November
20, 2001.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXTENSION OF THE EXPORT ADMINISTRATION**

4 **ACT OF 1979.**

5 Section 20 of the Export Administration Act of 1979
6 (50 U.S.C. App. 2419) is amended by striking "August
7 20, 2001" and inserting "November 20, 2001".

Chairman HYDE. The Chair yields himself 5 minutes for the purpose of presenting a statement.

Today the Committee will consider a measure I introduced yesterday, together with the Ranking Member, Mr. Tom Lantos, to extend the Export Administration Act of 1979 for 3 months, through November 20 of this year.

The Export Administration Act was extended for 1 year in the 106th Congress, through August 20 of this year, and it is now clear that neither the House nor the Senate will be able to consider a comprehensive rewrite of this 21-year-old statute by that date.

The prompt enactment of this stop-gap authorization will, however, enable the Bureau of Export Administration of the Department of Commerce to continue to administer and enforce our export control licensing system and should give the Congress sufficient time to consider a full rewrite of this measure.

As many of my colleagues are aware, the Export Administration Act of 2001, S. 149, is scheduled for floor action in the Senate in the near future, and it is our intention in this Committee to consider this measure next Wednesday, August 1st.

It is my intention, due to the fact that Mr. Lantos and I have an important meeting this morning, to limit opening statements on this matter to Mr. Lantos and myself. Mr. Menendez has made a request, and assuming that he can be brief, we will yield to him to make a statement. But any other Member who wishes to make a statement will be, without objection, included in the record.

Now I turn to Mr. Lantos, the Ranking Member.

[The prepared statement of Mr. Hyde follows:]

PREPARED STATEMENT OF THE HONORABLE HENRY J. HYDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS, AND CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

H.R. 2602

Today the Committee will consider a measure I introduced yesterday, together with the Ranking Member, to extend the Export Administration Act of 1979 for three months, through November 20 of this year.

The Export Administration Act was extended for one year in the 106th Congress, through August 20 of this year, and it is now clear that neither the House nor the Senate will be able to consider a comprehensive rewrite of this 21-year-old statute by this date.

The prompt enactment of this stop gap authorization will, however, enable the Bureau of Export Administration of the Department of Commerce to continue to administer and enforce our export control licensing system and should give the Congress sufficient time to consider a full rewrite of this measure.

As many of my colleagues are aware, the Export Administration Act of 2001, S. 149, is scheduled for floor action in the Senate in the near future, and it is our intention in this Committee to consider this measure next Wednesday, August 1.

I will now turn to the Ranking Member, Mr. Lantos, for any remarks he might want to make.

Mr. LANTOS. Thank you very much, Mr. Chairman. I want to commend you for your leadership on extending the Export Administration Act. The current act will expire on August 20th. On that day, our ability to implement United States dual-use export controls will terminate.

Now, the Senate has not acted on its legislation for new export authorization, and it is highly unlikely that it will do so before September. We are slated to mark up in this Committee a version of the Senate bill next week. But it will not go through the Armed

Services Committee and it will not reach the floor of the House prior to September.

The authority to maintain export controls can be continued under an executive order, as was done from 1995 to last year, but the lack of statutory authority will nevertheless compromise the Administration's ability to fully implement controls on militarily useful goods and technology. Clearly, more time is needed to enact a new Export Administration Act. The bill that Chairman Hyde and I are introducing will accomplish this by extending statutory authority of the Export Administration Act of 1979 until the end of November 2001.

This is the only responsible course of action given the circumstances. I urge my colleagues on the Committee and in both the House and the Senate to give their support to the extension that Chairman Hyde and I are introducing.

And before yielding the floor, Mr. Chairman, I want to extend my personal apology to our distinguished guests. Chairman Hyde and I are slated to go to the White House in the next few minutes to meet with the President on his recent trip to Europe, which will prevent us from attending the balance of this session. I yield my time.

Chairman HYDE. Mr. Menendez.

Mr. MENENDEZ. Thank you, Mr. Chairman. Mr. Chairman, the week before last, my staff was approached by yours about cosponsoring a bipartisan approach on export controls, and I was glad to see that finally we were on the way to doing the people's work together on this absolutely critical issue. But after a further review, the Chairman earnestly let it be known that philosophically he was not in agreement on our approach, and he honorably withdrew his offer and put a counteroffer on the table, which we seriously considered but ultimately, equally, did not accept. I appreciated the way that you professionally and courteously approached us on the issue, and I believe we did the same with your counteroffer.

We reached out again to the other side of the aisle to gather a solid bipartisan group to introduce what I believe is a very well-crafted piece of legislation, S. 149, the Export Administration Act, to which I alluded in our last hearing. Ninety senators supported it, attesting to its strong bipartisan appeal.

We reached out to the Republican leadership but did not get the courtesy of a response. We reached out to colleagues on this Committee, and we are very glad indeed to have received a positive response from Messrs. Houghton and Flake, and on the other side, Mr. Blumenauer.

So it seemed to me that bipartisanship had won the day, and last Thursday night we introduced H.R. 2557, the House version of the Export Administration Act. But before I could get up the next morning, we read the morning papers to be informed that last Friday the Majority leadership, and Mr. Dreier specifically, reintroduced our bill verbatim. It is identical in all respects but one. It cuts us out.

Mr. Chairman, when the rubber hit the road, a truly bipartisan effort was unceremoniously and not very graciously squashed by the leadership. That is a shame, because I do not believe that this bill will ultimately pass with Majority votes alone.

I appreciate the way in which the Chairman has handled the issue, but I do not appreciate the manner in which those who call for bipartisanship and those of us who seek to engage in it are subsequently treated on a matter that will not pass simply with Majority votes. I thank the Chair for the opportunity, and I ask that my full statement be entered in the record.

Chairman HYDE. Without objection, so ordered.

[The prepared statement of Mr. Menendez follows:]

PREPARED STATEMENT OF THE HONORABLE ROBERT MENENDEZ, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Chairman: The week before last, my staff was approached by your staff about cosponsoring a bipartisan approach on export controls. I was glad to see that finally we were on the way to doing the people's work together on this absolutely critical issue.

But after further review, the Chairman earnestly let it be known that philosophically he was not in agreement with our approach, and he honorably withdrew his offer and put on the table a counteroffer which we conditionally accepted, but subject to review as well.

We gave serious consideration to inclusion of an amendment related to North Korea in return for a mark-up just a couple of days before recess. Although seemingly attractive, after further review, we determined that we did not agree with this approach and withdrew as well.

Mr. Chairman, I appreciated the way you professionally approached us and withdrew your support. I did the same with your counteroffer.

We reached out again to the other side of the aisle to gather a solid bipartisan group to introduce what I believe is a very well-crafted piece of legislation, S.149, the Export Administration Act of 2001, to which I alluded in our last hearing. That 90 Senators support it attests to its strong bipartisan appeal.

We reached out to our colleagues on this committee and were very glad indeed to receive a positive response from Messrs. Houghton and Flake, and on our side, Mr. Blumenauer. Bipartisanship, it seemed, had won the day. Together, last Thursday night we introduced HR 2557, the House version of the Export Administration Act of 2001.

And then came a sudden change. We reached out to the Republican leadership, but did not get the courtesy of a response. Before I could read the morning papers, staff informed me last Friday that the Majority leadership—Mr. Dreier specifically—re-introduced our bill verbatim. It is identical in all respects but one: it cut us out.

Mr. Chairman, when the rubber hit the road, a truly bipartisan effort was unceremoniously—and not very graciously—squashed by your leadership. That is a shame, because I do not believe this bill will pass with Majority votes alone.

And what about the famous rhetorically bipartisan Administration? My understanding is that they are fully behind this legislative railroading. In fact, we were advised that only a Majority-sponsored bill had any hopes of passage.

Mr. Chairman, notwithstanding your own candor, this is a direct slap in the face. It puts the lie to the Majority leadership's and the Administration's claims of a bipartisan spirit in moving forward on this bill. This is just not the way to do business. But it is especially upsetting because it so glaringly contradicts so many public statements in support of bipartisan efforts.

In fact, I wonder if there is an Administration witness here that can honestly tell us right here and right now what happened. Do they not believe in practicing what they preach in terms of bipartisanship. I would appreciate an answer, Mr. Chairman.

As I have said, this is a critical issue. I may have differences with you, Mr. Chairman, but I believe we have been honest with each other. If we want to move forward together on this, I want to suggest that some adjustments need to be made at the White House, whose bipartisanship I praised in my last statement, and in your leadership. I am not confident, Mr. Chairman.

Chairman HYDE. I would like to say to the gentleman that I am not aware and not privy to the machinations that apparently are machinating, and I welcome the gentleman—

Mr. LANTOS. Would you spell that, Mr. Chairman?

Chairman HYDE. I can hardly pronounce it—Mr. Flake of Arizona for a brief statement.

Mr. FLAKE. I will insert a statement for the record, but I just want to echo concerns that this does expire next month. We could be actually debating legislation to improve it rather than simply extend it, and I would certainly prefer that but hope that we move quickly on it in the future.

Thank you.

[The prepared statement of Mr. Flake follows:]

PREPARED STATEMENT OF THE HONORABLE JEFF FLAKE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ARIZONA

While Chairman Hyde should be commended for his diligence in attempting to ensure that the Export Administration Act does not expire next month on August 20, I would like to draw the Committee's attention to legislation I cosponsored last week with some of my colleagues on the Committee.

This legislation, the Export Administration Act, would not merely extend the current existing export control regime, but *improve* upon it in areas that are of concern not only for industry, but for those who are concerned with our national security. The EAA adopts the recommendations of defense and national security experts by establishing a smarter, more effective export control framework tailored to fit today's world, rather than the world of 1979. Both Vice President Cheney and National Security Advisor Condoleezza Rice have indicated their full and enthusiastic support for the bill.

In areas such as end use and user controls, the EAA goes above and beyond the current law, and codifies current regulation. The EAA also establishes tough new criminal and civil penalties for export control violations, which go significantly further than the slap on the wrist violators currently face.

It is not likely that the Senate will also extend current law for three months. Given this improbability, we are risking expiration of current law. Should that occur, the International Economic Emergency Powers Act (IEEPA) will take effect, and we will see even lower penalties for offenders, and also court challenges to the authority of the Bureau of Export Administration to implement the EAA of 1979 under IEEPA. The longer the Congress delays, the more likely it is that a court would rule that BXA lacks the authority to implement the EAA of 1979 under IEEPA.

I fear that another delay in reauthorizing the EAA will only encourage inactivity on this issue in the Congress. It is time to act responsibly and bring our export control system into the 21st century.

Chairman HYDE. Very well. I understand there are no amendments. Therefore, the question occurs on the motion to report the bill, H.R. 2602, favorably.

All in favor, say aye.

Opposed, no.

The ayes have it and the motion to report favorably is adopted. Without objection, the Chairman is authorized to move to go to conference, pursuant to House Rule 22. Without objection, the staff is directed to make any technical and conforming changes.

Chairman HYDE. Pursuant to notice, I now call up the resolution, H. Con. Res. 178, concerning persecution of Montagnard peoples in Vietnam, for purposes of markup and move its favorable recommendation to the House.

[The resolution, H. Con. Res. 178, follows:]

107TH CONGRESS
1ST SESSION

H. CON. RES. 178

Concerning persecution of Montagnard peoples in Vietnam.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2001

Mr. BALLENGER (for himself and Mr. BURR of North Carolina) submitted the following concurrent resolution; which was referred to the Committee on International Relations

CONCURRENT RESOLUTION

Concerning persecution of Montagnard peoples in Vietnam.

Whereas the Montagnards are indigenous peoples of the Central Highlands of Vietnam who have long suffered discrimination and mistreatment at the hands of successive Vietnamese governments;

Whereas during the 1960's and 1970's Montagnard freedom fighters were the first line in the defense of South Vietnam against invasion from the North, fighting courageously beside members of the Special Forces of the United States Army, suffering disproportionately heavy casualties, and saving the lives of many of their American and Vietnamese comrades in arms;

Whereas since 1975 the Montagnard peoples have been singled out for particularly harsh treatment by the communist government of the Socialist Republic of Vietnam,

in part because of their past association with the United States and in part because their strong commitment to their traditional way of life and to their Christian religion is regarded as inconsistent with the absolute loyalty and control demanded by the communist system;

Whereas many Montagnards belong to independent evangelical Protestant churches which the Vietnamese Government regards as illegal and which the Government has persecuted by measures including closing and destruction of church buildings, harassment and discrimination against believers, and in some cases imprisonment and physical abuse;

Whereas the Vietnamese Government has long pursued a systematic policy of encouraging migration by ethnic Vietnamese to the Central Highlands, resulting in encroachments on and confiscation of Montagnard communal lands;

Whereas in recent years more and more Montagnard lands have been confiscated as a result of Government programs aimed at the cultivation of coffee and other products for export;

Whereas the Montagnards have far higher rates of poverty and disease than other residents of Vietnam, including one of the highest rates of Hansen's disease (leprosy) in the world, in part due to Government policies and practices that prevent nongovernmental organizations from working directly with Montagnards and divert in-kind humanitarian assistance provided by international and nongovernmental organizations;

Whereas many thousands of Montagnards were eligible for the Orderly Departure Program and other United States

in-country refugee programs on account of their wartime associations with the United States, postwar persecution on account of these associations, and other persecution on account of race, religion, and political opinion;

Whereas only a handful of eligible Montagnards have ever been able to gain access to these United States refugee programs, in part because few Montagnards could afford to pay bribes demanded by communist officials in exchange for permitting such access, and in part because of unreasonably restrictive policies imposed at times by United States officials charged with administering these refugee programs;

Whereas in February 2001 several thousand Montagnards participated in a series of peaceful demonstrations throughout the Central Highlands, demanding religious freedom and restoration of their confiscated lands;

Whereas the Government responded to these peaceful demonstrations by closing off the Central Highlands and sending in military forces, tanks, and helicopter gunships;

Whereas for the last 4 months the Government has refused to allow any meaningful access to the Central Highlands by diplomats, journalists, or other observers, so that it is impossible to be certain of the extent of the current repression;

Whereas credible reports by refugees who have escaped from the Central Highlands indicate that the Government has executed some participants in the demonstrations and has subjected others to imprisonment, torture, and other forms of physical abuse;

Whereas since February several hundred Montagnard refugees, and perhaps more, have succeeded in escaping from Vietnam into Cambodia;

Whereas approximately 250 of these refugees are under the care and protection of the United Nations High Commissioner for Refugees (UNHCR) at sites in the north-eastern Cambodian provinces of Mondulakiri and Ratanakiri, and another 38 have been resettled in the United States;

Whereas the Royal Government of Cambodia has announced that Montagnards found in Cambodia who express a fear of return to Vietnam will be placed under the protection of UNHCR rather than forcibly repatriated to Vietnam;

Whereas despite this announcement by the central government, local and provincial police and military officials in Mondulakiri province, and perhaps some officials of the central government, appear to be pursuing a policy of systematic forcible repatriation of Montagnard asylum seekers to Vietnam;

Whereas, according to international observers Cambodian military and police officials have yet to deliver a single Montagnard into the care of UNHCR and have forcibly repatriated at least 100 to 200 Montagnards to Vietnam;

Whereas there are credible reports that Vietnamese security forces are operating openly in Mondulakiri and Ratanakiri provinces, harassing and intimidating local residents who have been helpful to Montagnard asylum seekers and offering bounties for the surrender of asylum seekers, including one instance in which Vietnamese security forces paid \$3,200 in gold to local Cambodian officials in ex-

change for 33 asylum seekers who were then repatriated to Vietnam;

Whereas there are credible reports that the Governments of Cambodia and Vietnam have taken extraordinary measures to secure the border against further escapes into Cambodia by Montagnard asylum seekers; and

Whereas although the information blackout imposed by the Vietnamese Government makes it impossible to predict with certainty the fate of Montagnards who are refused entry into Cambodia or forcibly repatriated to Vietnam, there is reason to believe that those who participated in the February demonstrations or who actively profess Christianity may be subjected to severe persecution: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring)*, That the Congress—

3 (1) urges the Government of Vietnam to allow
4 freedom of religious belief and practice to all
5 Montagnards including those who are evangelical
6 Christians belonging to denominations not recog-
7 nized by the Government; to return all traditional
8 Montagnard lands that have been confiscated or en-
9 croached upon; to allow nongovernmental and inter-
10 national humanitarian organizations to deliver hu-
11 manitarian assistance directly to Montagnards in
12 their villages, without interference or involvement by
13 Government officials; to open up all parts of the
14 Central Highlands to foreign and domestic journal-

1 ists, human rights organizations, diplomats, and
2 other observers; and to withdraw its security forces
3 from Cambodia and stop hunting down refugees;

4 (2) commends the Royal Cambodian Govern-
5 ment for its official policy of guaranteeing tem-
6 porary asylum for Montagnards fleeing Vietnam;

7 (3) urges the Royal Cambodian Government to
8 take all necessary measures to ensure that all offi-
9 cials and employees of the local, provincial, and cen-
10 tral governments fully obey the policy of providing
11 temporary asylum; to make clear that such protec-
12 tion will be extended not only to Montagnards found
13 within Cambodia but also to those apprehended at
14 the border; to insist that the Government of Viet-
15 nam withdraw its officials and employees from Cam-
16 bodian territory and discontinue its efforts to secure
17 forcible repatriation of Montagnards; and to provide
18 security at sites where refugees are sheltered;

19 (4) commends the officials and employees in
20 Cambodia of the United Nations High Commissioner
21 for Refugees (UNHCR) and the United Nations
22 Human Rights Center for their assistance to and ad-
23 vocacy on behalf of Montagnard asylum seekers and
24 refugees, and urges them to continue and intensify
25 these efforts;

1 (5) commends the Department of State for the
2 assistance to and advocacy of Montagnard asylum
3 seekers that have been provided by officials and em-
4 ployees of the United States Embassy in Phnom
5 Penh and urges that such efforts be continued and
6 intensified; and

7 (6) urges the Department of State to make
8 clear to the Government of Vietnam that continued
9 mistreatment of Montagnards and efforts to seek
10 forcible repatriation of refugees and asylum seekers
11 from Cambodia represent a grave threat to the pro-
12 cess of normalization of relations between the Gov-
13 ernments of the United States and Vietnam and, in
14 particular, a serious obstacle to any prospects for
15 the future provision of United States assistance to
16 the Government of Vietnam and to United States
17 support of such assistance by international financial
18 institutions.

○

[The prepared statement of Mr. Hyde follows:]

PREPARED STATEMENT OF THE HONORABLE HENRY J. HYDE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ILLINOIS, AND CHAIRMAN, COMMITTEE ON INTER-
NATIONAL RELATIONS

H. CON. RES. 178

I am proud to support House Concurrent Resolution 178, concerning the persecution of the Montagnard peoples of Vietnam. I want to thank the gentleman from North Carolina, Mr. Ballenger, a senior member of the International Relations Committee, for introducing this important resolution, which calls attention to the tragic situation of the Montagnards, and which should be a central theme in United States foreign policy toward Vietnam.

The Montagnards are indigenous peoples of the Central Highlands of Vietnam. During the war, Montagnard freedom fighters were the first line in the defense of South Vietnam against invasion from the North. They fought valiantly beside members of the Special Forces of the United States Army. Consequently, since the fall of Saigon in 1975, the Montagnard peoples have been singled out for particularly harsh treatment by the Communist government. This is not only because of their close association with the United States, but also because their strong commitment to their traditional way of life and to their Christian religion is regarded as inTjes5T 0.06s calsocialion abortane loyalty

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE BENJAMIN A. GILMAN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW YORK

H. CON. RES. 178

Mr. Chairman: The fate of the Montagnard people is part of the melancholy history of the United States involvement in Vietnam. Many Montagnard fought on the side of the United States. Many Montagnard were left to their fate after the U. S. withdrew from Vietnam.

Recently they have been voicing their grievances more openly. This resolution will demonstrate to them and the Vietnamese government that they have not been forgotten by the United States.

The Montagnards have paid a price for their cooperation with the United States. They have suffered persecution and harassment by the Vietnamese government. In some cases, they have undergone imprisonment and physical abuse.

It is important for the United States and the world to demonstrate that we are aware of these injustices. This resolution will show that the Montagnards have not been forgotten.

